

**MINUTES OF REGULAR MEETING
OPEN SESSION
January 12 and 13, 2010
ILLINOIS GAMING BOARD
CHICAGO, ILLINOIS**

NOTE: ITEMS IN **BOLDFACE PRINT** REFLECT OFFICIAL BOARD ACTIONS

On Tuesday, January 12, 2010 a Regular Meeting of the Illinois Gaming Board ("Board") was held on the 3rd floor at 160 N. LaSalle, Chicago, Illinois.

On Tuesday, January 12, 2010 at approximately 10:00 a.m. the following Board Members were present: Chairman Jaffe, Members Charles Gardner, Eugene Winkler, Joseph Moore and James Sullivan. At 10:05 a.m. on Tuesday, January 12, 2010, Member Gardner called the meeting to order. Pursuant to Section 2(c), paragraphs (1), (11), (14) and (21) of the Open Meetings Act and Section 6(d) of the Riverboat Gambling Act, Member Gardner moved that **the Board retire to Closed Session to discuss the items listed under Closed Session on today's agenda and relating to the following subject matters:**

1. **Personnel matters;**
2. **Pending litigation and matters involving probable litigation;**
3. **Investigations concerning applicants and licensees; and**
4. **Closed session minutes.**

Member Sullivan seconded the motion. The Board approved the motion unanimously by roll call vote. The Board recessed at 11:40 a.m.

On Wednesday, January 13, 2010 the meeting reconvened at 11:45 a.m. Present were the following Board Members: Chairman Aaron Jaffe, Members Charles Gardner, Eugene Winkler, James Sullivan and Joseph Moore.

The Board remained in Closed Session until approximately 12:00 p.m. The Board recessed and then went into open session at 12:52 p.m. All members were present.

APPROVAL OF MINUTES

Member Gardner moved that **the Board approve the closed session minutes of its Regular Meeting of December 15 and 16, 2009.** Member Winkler seconded the motion. The Board approved the motion unanimously by roll call vote.

Member Gardner moved that **the board approve the open session minutes of its Regular Meeting of December 16, 2009.** Member Winkler seconded the motion. The Board approved the motion unanimously by roll call vote.

CHAIRMAN'S COMMENTS –

An RFP was issued for a video gaming centralized communication system. No money was appropriated for the centralized communication system. The RFP was put out there for the Board and staff to see what is available. The procurement code will be followed very strictly.

ADMINISTRATOR'S COMMENTS –

Administrator Ostrowski stated that the RFP was issued on December 30, 2009 and all proposals must be submitted by February 3, 2010.

OWNER LICENSEE ITEMS

- Items for Final Action
 - Harrah's Metropolis – Cheryl M. Waltmon, Director of Human Resources – Level One

Based on staff's investigation and recommendation, Member Winkler moved that **the Board approve Cheryl M. Waltmon as an Occupational Licensee Level 1 in the position of Director of Human Resources for Harrah's Metropolis Casino in Metropolis, Illinois.** Member Sullivan seconded the motion. The Board approved the motion unanimously by roll call vote.

- Empress Casino – Jonathan D. Johnson, Vice President/General Manager – Level One

Based on staff's investigation and recommendation, Member Winkler moved that **the Board approve Jonathan D. Johnson as an Occupational Licensee Level 1 in the position of Vice President/General Manager for Empress Casino in Joliet, Illinois.** Member Sullivan seconded the motion. The Board approved the motion unanimously by roll call vote.

OCCUPATIONAL LICENSES APPROVALS & DENIALS – LEVEL 2s & 3s

Based on staff's investigation and recommendation, Member Sullivan moved that **the Board approve 14 applications for an Occupational License, Level 2, and 75 applications for an Occupational License, Level 3.** Member Moore seconded the motion. The Board approved the motion unanimously by roll call vote.

Further, Member Sullivan moved that **the Board direct the Administrator to issue a Notice of Denial to the following individual who received notice that staff intended to recommend denial and either did not respond or provide additional information to rebut the recommendation.**

1. Cody Clyde Lewis

Member Moore seconded the motion. Chairman Jaffe was in favor of the motion. Members Gardner and Winkler opposed the motion. The motion passed 3 to 2.

ADMINISTRATIVE HEARING/ALJ REPORT

Donna More appeared on behalf of Rock Island Boatworks.

- In Re: The Disciplinary Action of Rock Island Boatworks, Inc. d/b/a Jumer's Casino and Hotel and Ronald Wicks – DC-09-22

Member Winkler moved **that the Board accept the proposed settlement agreement between the Board and Rock Island Boatworks, Inc. d/b/a Jumer's Casino and Hotel and Ronald Wicks and delegate authority to the Administrator to execute the settlement agreement.** Member Sullivan seconded the motion. The Board approved the motion unanimously by roll call vote.

PROPOSED COMPLAINT AND DISCIPLINARY ACTION

- Ann Marie Martini – Occupational Licensee

Based on staff's investigation and recommendation, Member Gardner moved that **the Board issue a Disciplinary Complaint against Ann Marie Martini, an occupational licensee, for her unauthorized taking and use of Visa gift cards from Harrah's Joliet.**

Further, Member Gardner moved that **the Board revoke Ann Marie Martini's occupational license. Said action to take effect twenty-one (21) days from the date of service of the complaint unless the licensee files an Answer within that time period.** Member Sullivan seconded the motion. The Board approved the motion unanimously by roll call vote.

BOARD POLICY ITEMS

- Rulemaking –Second Notice and Adoption Upon Approval from JCAR

General Counsel Mike Fries summarized the Rulemaking process. Comments were received on a number of different items.

Rule 1800.110

A suggestion was made by the public to adopt a rule that proposes adding a definition of the Video Gaming Central Communication System Operator.

Staff disagrees that a definition for the central communications system operator is needed. It is not appropriate for a rule and will be handled through the contract with the system vendor. General Counsel Fries went on to address several comments related to credits.

Credits

A comment suggested an amendment to the definition of credit to allow for a “minimum bet” of 5 cents, thus permitting a penny game.

Mr. Fries stated that staff disagrees; the Board is on record that the definition of “credit” needs to be changed legislatively. Staff is on record requesting that the legislature make the change. Under current legislation penny games can be offered if the wager is divisible by 5.

Member Gardner asked if the minimum bet would be 5 cents allocated on 5 lines with 1 cent per line. Mr. Fries replied that you can bet a minimum of 5 cents allocated as little as 1 cent per line and the minimum win is divisible by 5 cents. General Counsel Fries stated that the payout out has to be divisible by 5 cents.

It was suggested that the consolidation of duties listed in section 210 of the Rules as to compliance, be consolidated. Staff disagrees that subsections (a), (d), (e) and (f) should be consolidated, as those are separate duties.

There was a suggestion that subsection (i) of Rule 210 be revised referencing updating of information on such forms as required by the Administrator. Staff agrees that subsection (i) be revised as the comment suggests.

Section 230(b)

A comment was received regarding the duty of manufacturers to maintain and provide inventory of gaming equipment to ensure the timely repair of any approved operation and play of video gaming terminals. The IGB staff agrees the rule needs to be clarified such that the duty applies to video gaming terminals certified for use in the State.

There was a suggestion that separate tax accounts and operating accounts need not be maintained for all gaming locations. Staff agrees with this suggestion in part and the rule will be clarified.

Third Party Checks

The comment was made that it will be problematic to ensure that third party checks, including payroll checks, are not cashed for video gaming play. It is contrary to industry practice.

Enforcement of this prohibition will be difficult. It was suggested that the IGB should not prohibit cashing these checks for video gaming play.

Member Gardner asked why can't bartenders question why patrons are cashing a third party check. He went on to say that we owe it to patrons so they don't gamble away their money. Third party check cashing should be prohibited. The Chairman stated that he does not agree with Member Gardner, and went on to state that rules that are passed should be enforceable. The IGB will not have the man power to enforce this rule. Making this a rule may be a great concept, but we will be unable to enforce it. There are constitutional problems with prohibiting third party check cashing. To pass a rule that is unconstitutional and un-enforceable is not appropriate.

Member Winkler stated that the IGB has been very careful with the SEP program. It is a good program to protect people. The big dangers of video gaming is the gambler is not protected. Prohibiting check cashing will protect them. Member Winkler went on to say that speeding laws are hard to enforce universally but we still have them.

The Chairman stated that you cannot take speeding laws and relate them to people running a business. Police officers can enforce a speeding law, the police have the manpower to enforce such a law, the IGB does not have the man power to enforce over 10,000 businesses and sit there and wait to see if a bartender is going to cash a check. Chairman Jaffe added that Member Winkler's goal is commendable but not constitutional and furthermore not enforceable.

Member Gardner asked why is it constitutional to prohibit third party check cashing at casinos. The Chairman stated that the casinos are created by statute and contained in one place. Agents are present to prohibit the third party check cashing. There are 10,000 liquor establishments which are not containable. Chairman Jaffe stated that he would love to pass a law of that nature. The law would be unconstitutional. He will not vote for something that is unconstitutional and unenforceable.

Member Gardner stated the Chairman's answer did not establish its unconstitutionality. He went on to say that it is understood that the law would be hard to enforce, but why is it unconstitutional. The legislature authorized the IGB to establish rules for those who hold video gaming licenses. The Chairman went on to say that by passing a law of this nature, it would be opening the State to lawsuits and furthermore we could not enforce the law.

Member Gardner went on to state that he agrees with Member Winkler, and also added that video gaming establishments should have surveillance cameras; in turn they would be helpful in dealing with third party check cashing. He also stated that casinos have cameras, why not video gaming establishments. The Chairman stated that the cameras are in the casinos for the purpose of the casino operator, not to protect the public. Member Gardner stated that those cameras help the IGB enforce its rules. Member Sullivan commented that the rule is not enforceable, the IGB will not be able to regulate such a provision; cashing third party checks is a long term and on-going practice. Member Sullivan also stated that he was in agreement with the Chairman's comments.

Member Gardner stated that a majority vote is needed. General Counsel Fries stated that from the conversation it seems as though it is 2-2. Member Winkler commented to Member Moore that he needs to make a public statement. The Chairman, stated “Member Winkler you are out of order. You are wrong to try and make Member Moore make a public statement. Let Member Moore make his own statement. Don’t try to embarrass or coerce him.” Member Gardner moved that staff be directed to change the provision in the rules to prohibit cashing of third party checks at video gambling establishments. The motion is as follows:

- 3rd Party Check Cashing

Member Gardner moved that **Staff be directed to change the provision in the rules to prohibit the cashing of 3rd party checks in establishments that have video gaming licenses.** Chairman Jaffe, Member Sullivan and Member Moore opposed the motion. Member Winkler was in favor of the motion. The motion failed 3 to 2.

Section 320 Use Agreements

General Counsel Fries referenced a suggestion to add a provision that releases the video gaming location from any contractual obligation to the terminal operator in the event that the terminal operator is denied licensure by the state. Staff agrees that there needs to be a provision that releases a video gaming location from any continuing contractual obligation to the terminal operator in the event that the terminal operator has its license revoked or surrenders its license.

Section 310 and 420

Comments were made suggesting the addition of a rule that “the Board may not grant any video gaming license until the Board is satisfied that the applicant is not owned or controlled by persons or entities that have owned and engaged in supplying Illinois businesses video gaming devices that have been used for illegal gambling purposes.” The comment stated that this should not apply to Video Gaming locations. It should be added to a new subsection that is specific to Video Gaming locations.

Staff disagrees with the language proposed in this comment. Staff is further considering whether there should be a separate section in the rules addressing “gray machines”. General Counsel Fries stated that the Board will address “gray machines” later in this open session.

Section 430(c) (3)

It was suggested that the term “other than a bank or other licensed lending institution” be better defined to include hedge funds and other non-conventional sources that are providing funding to the gaming industry. There are many suitable funding sources now available that technically do not meet the definition of a bank or licensed lending institution. Industry wants flexibility to obtain financing.

It was also suggested that passive investors of publicly-traded companies who hold shares for investment purposes only should not be subject to disclosure requirements. The Rule should be

revised to exempt institutional investors holding less than 25% of the shares of a publicly-traded company from persons of significant influence and control disclosure and should be subject to institutional investor disclosures like in the Riverboat Gaming Act. Institutional Investors should also be defined as it is in the Riverboat Gaming Act.

General Counsel Fries stated that staff agrees that a change is necessary and is working on the language. Staff agrees in part with the concept of institutional investor disclosure generally. Staff agrees that a definition of institutional investor should be included in the rules. Staff disagrees that a 25% threshold is appropriate. Staff believes that any threshold should be consistent with the Riverboat Gambling Act rules.

Section 110

The last section with suggestions relates to Illinois residency. Section 26 of the Act sets forth a residency requirement. Staff agrees in part with the suggested revisions to the rules. Staff suggests that the definition of “Illinois Resident”, with regard to an individual, be modified so that it is consistent with other residency definitions. With respect to an individual, residency would include an individual who is either i) domiciled in Illinois or maintains a bona fide place of abode in Illinois; or ii) is required to file an Illinois income tax return during the taxable year and is either employed in Illinois or transacts video gaming business in Illinois. We want to maintain a connection to the State to qualify as a resident.

The Chairman stated that the rule needs to be changed. This is a constitutional point. As it stands it would open the State to lawsuits.

Member Gardner agrees that a change needs to be made. He added that the proposed language of residency is circular and suggested that it would be sufficient to say with respect to an individual; an individual who is either (i) domicile in Illinois or maintains a bona fide place of abode in Illinois or (ii) is required to file an Illinois income tax return during the taxable year.

Member Gardner commented how pleased he was with the public response to the rules and to such a diverse group of commentators. There will be more rules to follow and the Board and staff will be looking for public input.

Member Winkler commended staff on a great job in bringing the rules together. The Illinois Gaming Board has had no support from the legislature for additional staffing needs, and staff must maintain their regular duties along with these additional duties.

Member Moore moved that the Board authorize staff to submit proposed Rules 1800.110, 1800.115, 1800.120, 1800.210, 1800.220, 1800.230, 1800.240, 1800.250, 1800.260, 1800.270, 1800.310, 1800.320, 1800.410, 1800.420, 1800.430, 1800.510, 1800.520, 1800.530, 1800.540, 1800.550, 1800.560, 1800.570, 1800.580, 1800.610, 1800.615, 1800.620, 1800.625, 1800.630, 1800.635, 1800.640, 1800.650, 1800.660, 1800.670, 1800.680, 1800.690, 1800.695, 1800.710, 1800.715, 1800.720, 1800.725, 1800.730, 1800.735, 1800.740, 1800.745, 1800.750, 1800.760, 1800.770, 1800.780, 1800.790 and

**1800.810 for Second Notice Filing with the Joint Committee on
Administrative Rules as revised.**

Further, Member Moore moved that **the Board authorize the final adoption and publishing of the above-referenced rules, provided no material changes are made to these rules during the Second Notice process.** Member Sullivan seconded the motion. The Board approved the motion unanimously by roll call vote.

- Gray Machines –

Gray Machines are coin operated amusement devices that are used for gambling purposes.

Chairman Jaffe stated he would like to adopt the following:

Chairman Jaffe moved that **the Board adopt the following policy regarding the licensing of businesses or individuals who have had or continue to have a connection to the use of coin-operated amusement devices for gambling purposes:**

- 1. As with other gambling related convictions, any criminal conviction related to the use of coin-operated amusement devices for gambling purposes will disqualify an applicant for licensure and constitute grounds for the revocation of a license issued by the Board and any designation as a person with significant influence or control.**
- 2. An applicant will be denied licensure and a person otherwise eligible for designation as a person with significant influence or control will be denied such designation if the Board determines that said applicant or person facilitated, enabled or participated in the use of coin-operated amusement devices for gambling purposes on or after December 16, 2009.**
- 3. The Board will determine on a case-by-case basis an applicant's eligibility for licensure and a person's eligibility for designation as a person with significant influence or control who facilitated, enabled or participated in the use of coin-operated amusement devices for gambling purposes prior to December 16, 2009.**

The Chairman suggested that December 16, 2009 be the date that the gray machines would be subject to the Rules.

Member Gardner seconded that December 16, 2009 was the date regarding the discussion of gray machines.

Chairman Jaffe further moved to instruct staff to revise the proposed rules to be consistent with this policy. Member Gardner seconded the motion. The Board approved the motion unanimously by roll call vote.

At 2:00 p.m. Member Winkler motioned to adjourn and Member Gardner seconded the motion. All Members voted in favor of adjournment.

Respectfully submitted,

Mary C. Boruta
Secretary to the Administrator